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APPLICATION	NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/796,245		03/08/2004	John Horan	24198-08940	2147	
758	7590	06/03/2005		EXAMINER		
	CK & WE	EST LLP CENTER		DINH,	PAUL '	
	IFORNIA			ART UNIT	PAPER NUMBER	
MOUNT	AIN VIEV	V, CA 94041		2825	2825	
				DATE MALLED ACCORDAN	_	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	
	10/796,245	HORAN ET AL.	
Office Action Summary	Examiner	Art Unit	
	Paul Dinh	2825	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address	
A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from the application to become ABANDONE	nely filed rs will be considered timely. the mailing date of this communicatio ID (35 U.S.C. § 133).	on.
Status			
 Responsive to communication(s) filed on <u>08 M</u> This action is FINAL. Since this application is in condition for alloward closed in accordance with the practice under E 	action is non-final. nce except for formal matters, pro		s
Disposition of Claims			
4) ☐ Claim(s) 1 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/o			
Application Papers	•		
 9) ☐ The specification is objected to by the Examine 10) ☐ The drawing(s) filed on <u>08 March 2004</u> is/are: Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) ☐ The oath or declaration is objected to by the Examine 	a)⊠ accepted or b)⊡ objected to drawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Application rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s)			
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail Da		
Rotice of Draisperson's Patent Drawing Review (PTO-946) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date		atent Application (PTO-152)	

Application/Control Number: 10/796,245

Art Unit: 2825

DETAILED ACTION

Specification

In page 2 of the specification, "09/707,330, filed November 6, 2000" should be updated/changed to "09/707,330, filed November 6, 2000 and now USP 6704908".

Claim Objections

Claim 1 is objected to because:

- a. The preamble should state the application/purpose/intended use.
- b. "said layout tile" on line 11 lacks antecedent basis.
- c. The semicolon (;) on line 12 should be deleted.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application; see 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 (which includes the subject matter of claims 1-2, 4-7) of U.S. Patent No. 6704908. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the patent are similar to the claim in the present application and substantially read on the claim in the application and vice versa, the claim in the present application is similar to and substantially read on the claims in the patent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Dinh whose telephone number is 571-272-1890. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Dinh

Patent Examiner

Paul Dinh